

FILED
Clerk
District Court

JAN 18 2007

For The Northern Mariana Islands
By _____
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

LISA S. BLACK,
Plaintiff,
vs.
JIM BREWER, et. al.,
Defendants.

Case No. CV-05-0038

**ORDER DENYING BREWER'S
MOTION TO DISMISS**

THIS MATTER came before the court on Wednesday, January 17, 2007, on defendant Brewer's written motion to dismiss the case for lack of subject matter jurisdiction. Because defendant Brewer waived a hearing date and due to the imminence of the trial date, and to conserve the resources of the court and the parties, the court will decide the motion without the necessity of a filing by plaintiff.

THE COURT, having considered defendant Brewer's written arguments, **DENIES** defendant Brewer's motion to dismiss for lack of subject matter jurisdiction for the reasons the court articulated in its Order Denying Motion to Dismiss Supplemental Claims, No. 88 (Jan. 13, 2007). Furthermore, because the "due process provision [of the Commonwealth Constitution] affords the same protection as does the due process clause of the U.S. Constitution," plaintiff's second claim for a due process violation under the Commonwealth Constitution states a claim for redress under the due process provision of the U.S. Constitution. *Office of Attorney General v. Rivera*, 3 N. Mar. I. 438, 445 n.3 (1993); *see* Order Granting Partial Summary Judgment, No. 81 (Jan. 5, 2007). Accordingly, the court has federal question jurisdiction over plaintiff's second claim. Moreover,

1 because there is a sufficient factual nexus between the federal and state claim to establish a common
2 nucleus of operative facts, the court has supplemental jurisdiction over the state claim.

3 If plaintiff desires the court to dismiss this case without prejudice and there is no objection,
4 plaintiff shall notify the court no later than Friday, January 19, 2007, at 3:30 p.m.

5 **IT IS SO ORDERED.**

6 **DATED** this 18th day of January, 2007.

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9 ALEX R. MUNSON
10 Chief Judge
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